

REMARKS

Claims 1, 3 and 7 are pending in this application. No amendment is made in this Response.

Claims 1, 3, 7 remain rejected under 35 U.S.C. §102(b) as being anticipated by Yasumoto (JP06298794). (Office Action paragraph no. 3)

Reconsideration and withdrawal of the rejection are respectfully requested.

In the Response filed on May 23, 2005, Applicant argued that the Examiner was making an inherency rejection regarding Yasumoto's composition, and Applicant presented data in a 1.132 Declaration filed on May 23, 2005, to demonstrate that the peptide mixture of Yasumoto contains more than 10% by weight of polypeptide having a molecular weight of at least 5,000, and therefore does not anticipate claims 1, 3 and 7.

In the final Office action, the Examiner states that the Declaration has not adequately reproduced Example 1 of Yasumoto. The Examiner refers in particular to the reaction conditions for the supernatant after reaction. In Example 1 of Yasumoto (paragraph [0019]), 5 g of bonito was mixed for 15 minutes in 90 °C water and extracted, boiled for 10 minutes at 100 °C, and then adjusted to pH 7.0, and reacted with thermolysin (apparently at 1/100 of the weight of the substrate, that is, 50 mg) at 60 °C for 5 hours. The Examiner states that the reaction conditions in the Declaration are different in reaction temperature and reaction time.

In response, Applicant has obtained additional data exactly reproducing Example 1 of Yasumoto. These data are presented in the attached Declaration under 37 CFR §1.132, executed on

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October 18, 2005, by Hiroyuki Fujita. In particular, in the experiment described in the attached Declaration, the thermolysin hydrolysis reaction time and temperature are the same as in Example 1 of Yasumoto: 60 °C at pH 7 for 5 hours. The resulting solution was then concentrated and purified as in paragraph [0020] of the reference.

The molecular weight distribution of the resulting sample was then measured, as well as the aftertaste. The result, as presented in the Declaration, is that the content of the sample of peptides having a molecular weight of at least 5000 is 16.5% by weight of the total hydrolyzate, which is **not consistent** with the requirement of claim 1 that this parameter be 0.1 to 10% by weight.

The Declaration also presents aftertaste evaluation data, for which the reproduced sample of Yasumoto was found to leave a slightly bad aftertaste. Applicant asserts that this further demonstrates that the treated hydrolyzate of the present claims is different from, and superior to, that of Yasumoto et al.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact Applicant's undersigned agent at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

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In the event that this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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Enclosures: Declaration Under 37 CFR §1.132

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